

REMARKS

The Office Action mailed April 23, 2002 (Paper No. 9) in the above-identified application set a three-month shortened statutory period for reply expiring July 23, 2002. The period for reply is extended three months to October 23, 2002, pursuant to the Petition for Extension of Time under 37 C.F.R. 1.136(a) submitted herewith. This response is therefore timely filed.

Claims 1, 14-23, and 31 have been amended to more particularly describe Applicants' invention of a palatable, low-sodium salt substitute containing specified amounts of sodium chloride, potassium chloride, a calcium salt and a magnesium salt. No new matter is added by this amendment.

Claims 1 and 14-35, all the claims in the application, stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Nakagawa et al., Krotkiewski et al., and Deveau et al. for the reasons set forth in the last Office Action (Paper No. 6). The Examiner maintains that:

- 1) Nakagawa et al. disclose a salt substitute comprising sodium chloride, potassium chloride, magnesium, and calcium (see entire patent, especially the claims). Nakagawa et al. also disclose the use of other additives such as magnesium phosphate, calcium phosphate, magnesium citrate, citric acid, and ascorbic acid (see columns 3 and 4);
- 2) Krotkiewski et al. disclose a table salt comprising sodium chloride, potassium chloride, calcium, and magnesium (see entire document). Krotkiewski et al. also disclose restricted consumption of salt for health reasons including hypertension (see column 1). It is also noted that the link between salt (sodium chloride) consumption and hypertension is notoriously well-known;
- 3) Deveau et al. disclose a salt composition comprising sodium chloride and at least two salts from a group comprising magnesium chloride, calcium chloride, and potassium chloride (see abstract);

and that in the absence of unexpected results, the claimed invention does not differ from the teachings of the prior art, the amounts claimed being simply a matter of choice well within the skill of the art and at most mere optimization.

The rejection is again respectfully traversed and reconsideration thereof requested.

The Nakagawa et al. reference is directed to a salt substitute containing a combination of whey mineral with an alkali metal salt and, optionally, an alkaline earth metal salt. As described at column 1 of Nakagawa, all salt substitutes containing potassium chloride have an irritating, bitter, or discomforting taste. Nakagawa et al. have found that when whey mineral is used with potassium chloride and other alkali metal salts or with a combination of an alkali metal salt and an alkaline earth metal salt, the resulting substance has an enhanced salt taste and yet the bitter, puckery or discomforting taste tends to be masked. Thus, whey mineral is a critical ingredient of the Nakagawa compositions. Without it, the aforementioned salt substitute compositions have an irritating, bitter or discomforting taste. Indeed, all compositions described in the Nakagawa specification and claims (specifically relied upon by the Examiner) contain whey mineral. Thus, the Nakagawa reference teaches the necessity of adding whey mineral to sodium chloride/potassium chloride salt substitute composition to enhance saltiness and mask the unpleasant taste of potassium chloride, and therefore, teaches away from Applicants' compositions, which do not require whey mineral. It is submitted that characterizing the Nakagawa patent as teaching a salt substitute containing sodium chloride, potassium chloride, magnesium and calcium without mentioning the critical whey mineral content is not a fair reading of the reference as a whole and does not accurately represent what the reference conveys to one skilled in the art. Clearly, there is no suggestion in Nakagawa that a salt substitute composition that does not contain whey mineral would have the requisite properties of being salty without being irritating or bitter. In fact, the use of whey mineral in salt substitute compositions is the very essence of the invention described by Nakagawa. Accordingly, Nakagawa would not have suggested Applicants' claimed composition or indeed any composition not containing whey mineral.

Krotkiewski et al. and Deveau et al. disclose salt substitute compositions containing sodium and potassium chloride together with lesser amounts of a calcium salt. Both references disclose compositions in which sodium chloride is clearly the predominant ingredient (40% and 50% by weight, respectively). References a-e described by Applicants at pages 5-7 of the instant specification disclose salt substitute compositions containing sodium and potassium chloride together with magnesium and/or calcium salts. However, like Krotkiewski and Deveau, references a-e disclose compositions in which sodium chloride is the predominant ingredient, i.e., present in the amount of at least 40% by weight.

Given that the sole purpose of salt substitutes is to reduce the dietary intake of sodium, the art has of course sought palatable compositions containing the minimum amount of sodium chloride. Yet, as is clear from the Krotkiewski and Deveau references as well as the numerous references cited in Applicants' specification, at the time the instant invention was made, it was recognized in the art that a palatable sodium chloride/potassium chloride salt substitute required a minimum of about 40% sodium chloride. There is nothing in the cited art that would suggest reducing the sodium chloride content to 15%-25% while retaining acceptable saltiness and palatability. Thus, to urge that the compositions here-claimed are merely the result of optimization is submitted to be hindsight reconstruction in light of Applicants' disclosure.

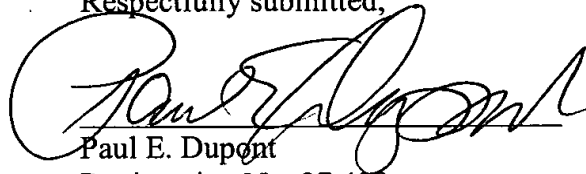
In view of the foregoing, it is submitted that the cited art is incompetent to either teach or suggest Applicants' claimed invention.

There being no remaining issues, this application is believed in condition for favorable reconsideration and early allowance, and such actions are earnestly solicited.

Attached hereto is a marked-up version of the changes made to the claims by the instant amendment. The marked-up version is entitled "Version With Markings To Show Changes Made".

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Version With Markings to Show Changes Made

In the Claims:

Claims 1, 14-23, and 31 have been amended as follows:

1. (Twice Amended) A dietetic composition in the form of a salt substitute for table salt ~~comprising~~, consisting essentially of by weight, from:

40% to 50% of potassium chloride,

15% to 25% of sodium chloride,

15% to 25% of one or more calcium salts, and

8% to 15% of one or more magnesium salts.

14. (Amended) A dietetic composition according to claim 1 additionally ~~comprising~~ containing from 0.5% to 2.5% by weight of one or more antiagglomerating agents.

15. (Amended) A dietetic composition according to claim 1 additionally ~~comprising~~ containing from 0.5% to 2.5% by weight of one or more taste-enhancing agents.

16. (Amended) A dietetic composition according to claim 15 additionally ~~comprising~~ containing from 0.5% to 2.5% by weight of one or more antiagglomerating agents.

17. (Amended) A dietetic composition according to claim 14 ~~comprising~~ containing from 0.5% to 1% by weight of one or more antiagglomerating agents.

18. (Amended) A dietetic composition according to claim 15 ~~comprising~~ containing from 0.5% to 2% by weight of one or more taste-enhancing agents.

19. (Amended) A dietetic composition according to claim 18 additionally ~~comprising~~ containing from 0.5% to 1% by weight of one or more antiagglomerating agents.

20. (Amended) A dietetic composition according to claim 1 ~~comprising~~ consisting essentially of, by weight, from:

45% to 50% of potassium chloride,
15% to 20% of sodium chloride,
15% to 20% of one or more calcium salts, and
10% to 15% of one or more magnesium salts.

21. (Amended) A dietetic composition according to claim 20 additionally ~~comprising~~ containing from 0.5% to 1% by weight of one or more antiagglomerating agents.

22. (Amended) A dietetic composition according to claim 20 additionally ~~comprising~~ containing from 0.5% to 2% by weight of one or more taste-enhancing agents

23. (Amended) A dietetic composition according to claim 22 additionally ~~comprising~~ containing from 0.5% to 1% by weight of one or more antiagglomerating agents.

31. (Amended) A dietetic composition according to claim 29 ~~comprising~~ consisting essentially of by weight:

45% of potassium chloride,
20% of sodium chloride,
20% of monocalcium phosphate,
12% of dibasic magnesium citrate,
1% of magnesium carbonate,
1% of ascorbic acid, and
1% of glutamic acid.